

Minute Order Form (06/97)

## United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Milton I. Shadur	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	98 CR 434	DATE	5/18/2000
CASE TITLE	USA vs. Michael Black		

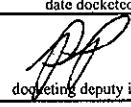
[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

## MOTION:

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## DOCKET ENTRY:

- (1) ☐ Filed motion of [ use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due \_\_\_\_\_.
- (3) ☐ Answer brief to motion due \_\_\_\_\_. Reply to answer brief due \_\_\_\_\_.
- (4) ☐ Ruling/Hearing on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (7) ☐ Trial[set for/re-set for] on \_\_\_\_\_ at \_\_\_\_\_.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to \_\_\_\_\_ at \_\_\_\_\_.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]  
☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] Enter Memorandum Order. Black's motion for continuance, enlargement of time is denied. (241-1)
- (11) ☒ [For further detail see order attached to the original minute order.]

<input type="checkbox"/> No notices required, advised in open court. <input type="checkbox"/> No notices required. <input checked="" type="checkbox"/> Notices mailed by judge's staff. <input type="checkbox"/> Notified counsel by telephone. <input type="checkbox"/> Docketing to mail notices. <input type="checkbox"/> Mail AO 450 form. <input type="checkbox"/> Copy to judge/magistrate judge.	SN courtroom deputy's initials	MAY 19 2000 ***** date docketed  docketing deputy initials 5/18/2000 date mailed notice SN mailing deputy initials	Document Number
			243



a Section 2255 motion attacking his sentence. Black speaks of that one-year period as running out in June 2000, apparently measuring the time from the June 7, 1999 jury verdict (a matter on which this Court expresses no view).

Because Section 2255 establishes a statute of limitations, Black is mistaken in assuming that this Court can grant a "continuance" of a timetable that, as here, has been prescribed by Congress. And although several other Courts of Appeals have held that equitable tolling is available to extend the deadline beyond the applicable one-year period, our own Court of Appeals has (without deciding the question definitively) cast doubt on the availability of that equitable doctrine in light of the express tolling provisions that are set out in the statute itself.

It is inappropriate for this Court to issue what amounts to an advisory opinion, despite Black's present pro se status. Under the circumstances, then, Black's motion for a continuance must be denied. If and when he does file a Section 2255 motion, and if by reason of its date of filing the government were to move to dismiss the Section 2255 motion as time-barred, this Court would then properly be called on to address the issue in the context of a full-fledged and real-world factual scenario,

rather than the more generalized position currently set out by  
Black.

A handwritten signature in cursive script, reading "Milton I. Shadur".

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Milton I. Shadur  
Senior United States District Judge

Date: May 18, 2000